

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

APOLLO HEALTHCARE CORP. d/b/a  
APOLLO HEALTH AND BEAUTY CARE

Plaintiff,

v.

SOL DE JANEIRO USA INC. and  
SOL DE JANEIRO IP, INC.,

Defendants.

SOL DE JANEIRO USA INC. and  
SOL DE JANEIRO IP, INC.,

Counterclaim-Plaintiffs,

v.

APOLLO HEALTHCARE CORP. d/b/a  
APOLLO HEALTH AND BEAUTY CARE  
and COSTCO WHOLESALE CORP.,

Counterclaim-Defendants.

**DECLARATION OF BRIAN BUSS SUMMARIZING**

**TRIAL TESTIMONY OF BRIAN BUSS**

I, Brian Buss, hereby declare as follows:

1. The statements made in this declaration are based on my personal knowledge

and are known by me to be true and correct. I am fully competent to provide this declaration, which I offer to summarize my trial testimony.

2. I submit this summary of my professional background and the expected trial testimony I will offer as an expert witness on behalf of Plaintiffs and Counterclaim Defendants Apollo Healthcare Corp. d/b/a Apollo Health and Beauty Care (“Apollo”) and Costco Wholesale Corp. (“Costco”) (Apollo and Costco will collectively be referred to as “Apollo Parties”) in the above-captioned case. A true and correct copy of my rebuttal expert report submitted in this matter on November 29, 2023, is attached hereto as **Exhibit 1.**

### **My Qualifications**

3. I am a Senior Director with the CBIZ Forensic Consulting Group, LLC. A Chartered Financial Analyst (CFA) with thirty (30) years of experience in valuations, financial analysis, and corporate finance both in the US and overseas.

4. I provide strategic advice for intellectual asset owners, guidance in determining economic damages in civil litigation, and performs valuations of trademarks, patents, brand assets, copyrights, and other intangible assets.

5. I am the vice-chair of the Commercialization of Brands Committee at the International Trademark Association (INTA) and a member of the INTA Task Force on IP Financial Reporting. I am also a member of the Business of Brands committee of the Licensing Executives Society (LES).

6. I earned a bachelor’s degree in Biology and economics from Claremont McKenna College and a Master’s in Business Administration (MBA) from San Diego State University.

7. My Curriculum Vitae (“CV”) is attached hereto as **Exhibit 1 Ex. A.**

8. My trial testimony will include analysis of the Expert Report of Thomai Serdari dated October 16, 2023 (“the Serdari Report”) which offers analysis and opinions regarding the relative importance of brand assets and a corrective advertising campaign.

9. My trial testimony will include my review of Sol de Janeiro’s financial performance, review of the Sol de Janeiro and Brazilian Bum Bum Cream brand assets, and my development of an alternative analysis of economic damages based on corrective advertising related to the counterclaims of Defendant and Counterclaim Plaintiff Sol De Janeiro USA, Inc. and Sol De Janeiro IP, Inc. (“SDJ”).

**Summary of My Opinions**

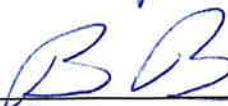
10. As there is no evidence SDJ has experienced any form of harm, an award of economics damages would provide an unreasonable and inequitable remedy for the Counterclaims in this Case.

11. The Serdari Report calculations contain several errors, rely on inaccurate and unsupported assumptions, and fail to consider alternative inputs, indicating the calculation results are speculative, flawed, and prone to a high degree of error.

12. I reserve my right to respond to any other questions elicited by SDJ at trial or any new opinions offered by their experts at trial.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 6 day of February 2025 in San Diego, California.

  
\_\_\_\_\_  
Brian Buss

State of California

County of San Diego

This document was signed before me on this 10<sup>th</sup> day of Feb 2025 By Brian Buss

My commission expires: 12-5-27

Laura Attkisson



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Diego)

On 2-16-25 before me, Laura Attkisson, Notary Public  
(insert name and title of the officer)

personally appeared Brian E. Buss,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Laura Attkisson

(Seal)

